

REMARKS/ARGUMENTS

Claims 1-4, 9-12, 15-16, 18-19, 21-22, 24-28, 30-35 and 37-45 are pending in the application. Claims 5-8, 13-14, 17, 20, 23, 29 and 36 were previously cancelled without prejudice. This amendment is being filed with a request for a three month extension. A credit card authorization form is enclosed to pay for the fees. The examiner rejected claims 1-4, 9-12, 15-16, 18-28 and 30-35 and 37-45 in the Office Action mailed February 13, 2007 (hereinafter referred to as "Office Action"). In view of the following remarks and amendments, applicant respectfully request a timely Notice of Allowance be issued in this case.

Support for the amendments can be found throughout the application. Applicant respectfully submits that no new matter is added by the amendments.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1, 9, 30, 34-35, 37 and 45 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,793,980 to Glaser in view of U.S. Patent No. 6,959,220 to Wiser. Claims 2, 10, 28, 31-33 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Wiser as applied to claims 1 and 9, and further in view of U.S. Patent No. 6,078,758 to Patton. Claims 3, 11-12 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glaser, Wiser and Patton as applied to claim 2, and further in view of U.S. Patent No. 6,272,634 to Tewfik. Claim 16 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Tewfik as applied to claim 9, and further in view of U.S. Patent No. 6,338,044 to Cook. Claims 18-19, 21-22 and 24-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Glaser in view of U.S. Patent No. 6,052,470 to Mouri and Wiser. Claims 38-39 and 42-44 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Wise as applied to claim 1, and further in view of Gabriel Bouvigne's MP3 Glossary. Finally, claim 40 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Glaser, Wiser and Patton as applied to claim 2, and further in view of Cook.

Unless the reference(s) teach or suggest all the claim limitations, obviousness cannot be found. MPEP § 2143.03. Further, once an independent claim is found to be non-obvious under 35 U.S.C. § 103, then any claim which depends from that independent claim is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). For the reasons stated below, applicant respectfully submits that the cited references do not disclose, teach or suggest all the claim elements of claims 1-4, 9-12, 15-16, 18-19, 21-22, 24-28, 30-35 and 37-45, as amended.

Claims 1, 9 and 18

Wiser discloses an audio processing system that allows a sound engineer to create and store one or more audio processing profiles from a particular bandwidth (col. 3, lines

24-32, 57-63). The audio processing profiles contain parameter values selected for optimal processing of a music type (e.g., classical) (col. 6, lines 50-62; col. 7, lines 15-23). The user can specify the sampling rate for the source audio file (col. 6, lines 7-10). The specified sampling rate is used to convert up or down each data word size and precision of each sample of the audio signal (col. 7, lines 59-62). This sample rate converter decimates or interpolates the intermediate signal from the sample rate of the source audio file to the sample rate specified in the audio processing profile (col. 8, lines 2-11, 14-16). A watermark containing encoded identification information data can be added to the filtered signal (col. 6, lines 15-17). A modulated noise sequence is created from the identification information and is added to the filtered signal (col. 9, line 66-col. 10, line 4).

Applicant respectfully submits that Wiser does not increase the sample rate and resolution in order to insert a first data block into the added resolution and a second data block into the added samples to create a first watermark. Wiser fails to disclose, suggest or teach such a process (see col. 10, lines 1-20). Wiser merely performs a conversion. In contrast, the present invention encodes a signal having first sampling rate and a first resolution into a file having a second sampling rate and a second resolution to create data gaps (added resolution and added samples) so that a watermark can be inserted into these gaps without altering the audio data. The watermark in Wiser is merely a noise signal spread throughout the signal. In other words, applicant respectfully submits that Wiser, nor the other cited references, do not disclose, suggest or teach, either alone or in combination:

a first data block is inserted into said added resolution,
a second data block is inserted into said added samples, and
a first digital watermark comprises said first data block and said second data block.

As a result, applicant respectfully submits that claims 1, 9 and 18 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103.

Claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45

With respect to claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45, applicant respectfully submits that claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45 depend from claim 1, 9 and 18, which are allowable for the reasons stated above, and further distinguish over the cited references. Accordingly, applicant respectfully submits that claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103.

Claim 42

With respect to claim 42, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claim 42 for the reasons stated above with respect to claim 1. More specifically, the cited references do not disclose, teach or suggest:

converting said signals to a digital format using a sampling rate greater than 44,100 samples per second and a resolution greater than 16 bits per sample; and

encoding said digitally formatted signals into a portable file at approximately 32,000 samples per second higher than said sampling rate and approximately 8 bits per sample higher than said resolution, a first data block is inserted into said added resolution, a second data block is inserted into said added samples, and a first digital watermark comprises said first data block and said second data block.

Accordingly, applicant respectfully submits that claim 42 is not obvious over the cited references, and is, therefore, allowable under 35 U.S.C. § 103.

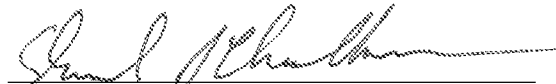
Conclusion

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-4, 9-12, 15-16, 18-19, 21-22, 24-28, 30-35 and 37-45 are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

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Respectfully submitted,

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